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Agricultural Adjustment Administration

HEARING WITH REFERENCE TO A PROPOSED SUGAR MARKETING AGREEMENT, AS REVISED JULY 18, 1933

Brief of

Insular Sugar Refining Corp.
(A Philippine Refinery) Bamban, P. I.

Refined Syrups & Sugars, Inc.
(A sugar syrup refinery) Brooklyn, N. Y.

Suchar Process Corp.
(Licensor of a vegetable carbon method of refining known as "Suchar Process") New York City.

FRANK ROBERSON,
Counsel,
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New York City.

August 10, 1933.

Agricultural Adjustment Administration

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Brief of Insular Sugar Refining Corp., Bamban, P. I., **Refined Syrups Inc.,** Brooklyn, and **Suchar Process Corp.,** New York City.

Insular Sugar Refining Corp. in 1929 built in Bamban, P. I., a modern sugar refinery at a cost of approximately three-quarters of a million dollars. It has an annual capacity of about 60,000 short tons of refined sugar. It is entirely owned by American capital. This plant is a Suchar process refinery, using the Suchar vegetable carbon instead of bonechar as a purifying medium.

There are two other sugar refineries in the Philippines. Malabon refinery, with a capacity of about 26,000 short tons and built many years ago, located in Manila, is leased by Insular Sugar Refining Corp. The third refinery, Victorias Milling Company, located on the Island of Negros and built about 1930, has an annual capacity of about 17,000 short tons. The total annual refining capacity of these three refineries is about 103,000 short tons. The actual production of these three refineries for the first six months of 1932 was 50,434 short tons of which local sales were 13,143 short tons. Figures for 1933 are not available but the production exceeds that of 1932.

Refined Syrups Inc. owns and operates a cane sugar syrup refinery in Brooklyn, which has a capacity of approximately 50,000 gallons of refined sugar syrup per day. The plant was built in 1927. Refined Syrups Inc. imports from Cuba in tank steamers

raw sugar syrup which is refined into a white sugar syrup. **This plant was the first to manufacture white sugar syrup in the United States.** It uses the Suchar process in manufacturing its syrup. The syrup is largely used by ice cream manufacturers, bakeries and other manufacturers of food products within the territory of New York City. The syrup is delivered from the Brooklyn plant by tank wagons to the consumer's plant and pumped into sanitary tanks in the consumer's factory. This method of manufacture and handling of sugar syrup is regarded as a highly progressive development in the trade by reason of its many advantages in sanitation, ease of handling, etc.

Suchar Process Corp. is the owner and licensor of the Suchar process. The successful use of vegetable carbon in the refining of sugar is a comparatively recent development in the sugar industry. Refineries using the Suchar process have been built in South Africa, England, Mexico, Brazil, Argentine, Puerto Rico, Haiti, Hawaii, Santo Domingo, Philippines, Cuba and Louisiana. The economical advantages in the use of Suchar process are shown by Exhibits A, B and D.

As the outstanding exponents of the newer and modern factors in the sugar industry, we desire to state at the outset our willingness to cooperate with the Agricultural Adjustment Administration in the handling of the sugar problem. We reiterate the position taken by us in the recent hearing before the Tariff Commission that the existing sugar problem can be settled only by the establishment of quotas on raws from the producing areas supplying the sugar market of continental United States. **The establishment of quotas on refined sugar is fundamentally wrong.** It is not necessary in order to aid the American beet and cane producer. It would decrease the protection from higher prices to the American consumer and it would only benefit the continental United States domestic cane refiners who operate largely on sugar grown off the continent. The setting up of quotas on off-shore refined sugar necessarily penalizes progress in refining methods, and during

the period of any refined sugar quotas absolutely prohibits the establishment of more economical and modern methods in refining.

Yet, in recognition of the acute emergency of the present economic conditions, we are most willing to cooperate with the administration and agree to reasonable quotas for imported refined sugar on the distinct understanding, however, that such refined quotas are to be limited strictly to the life of the marketing agreement, and are not to be considered as a permanent policy on the part of the Federal Government.

PURPOSE OF AGRICULTURAL ADJUSTMENT ACT

The underlying philosophy of the Act is to relieve the existing national economic emergency by increasing the agricultural purchasing power of the farmer by raising the selling prices of farm products. Undoubtedly, the Act is intended to aid any and all farmers under the American flag. Congress never intended that any discrimination should be made in the efforts to aid one group of farmers as against another group, and all farmers living under the American flag must always be considered as entitled to equality of protection. The Act, therefore, is designed as an aid to farmers and was not enacted to aid other groups in our economic life.

The only group affected by the imports of refined sugar is the refiners. It being our opinion that the purpose of the law under which the sugar marketing agreement is to operate is primarily to aid the farmers, we have the right to insist that any such marketing agreement shall not be framed so as primarily to aid the refiners and only incidentally aid farmers. As a matter of fact, it is not necessary to have the refiners as parties to a marketing agreement —they are mere principally processors of a foreign-grown product.

The beet farmer and the Florida and Louisiana cane growers have been for some years in a desperate financial condition and together with the other sugar farmers living under the American

flag deserve and are entitled to receive all possible benefits from the Act. Nevertheless, **all of these farmers must be fair to each other,** and the groups of beet and cane growers should recognize that in order for these two farming groups to be benefitted, it is necessary to have other parties to any operating marketing agreement, and naturally, these other parties will insist that their rights must also be considered for the benefit of the common cause. Any agreement among the diverse interests necessary to a fair and workable marketing contract should and will **require concessions from each group** receiving benefits from any such agreement. **No group can expect to contribute nothing in the way of concessions to a mutually beneficial agreement and at the same time to receive the maximum of benefit at the expense of the other parties thereto.**

PROPOSED AGREEMENT HIGHLY DISCRIMINATORY IN FAVOR OF CONTINENTAL CANE REFINERS

A casual examination of the proposed agreement will show that its real purpose is to relieve the domestic cane refiners from the competition of off-shore refined sugars. Their position in the Committee conferences with Dr. Coulter was that **no** imports of refined sugar should be permitted. This ignores the indisputable fact that imports of refined sugar do not come in competition with beet sugar, and further disregards the purpose of the Act which is to aid the farmers rather than a special industrial group. **We expect to prove that the primary interest of the Continental cane refiners in any sugar marketing agreement is to curtail the imports of refined sugar.** In April 1932 and February 1933 they urged for days before the Tariff Commission that the imports of Cuban refined sugars were rapidly driving them out of business. In 1932 the refiners claimed that the Cuban refined competition at the current rate of increase would kill the American refining industry within 10 years; but at the 1933 hearing the refiners reduced this period to about 5 years.

For proper understanding of the real interest of the domestic cane refiners in a proposed marketing agreement for sugar, it is necessary to give the Agricultural Adjustment Administration a brief summary of recent proceedings before the Tariff Commission. In July 1931 the domestic cane and beet sugar refiners filed an application with the Tariff Commission requesting an investigation, " * * * on the difference between the duty on raw sugar and the duty on refined sugar dutiable under paragraph 501 of said Act". The public hearing as to refined sugar was held by the Tariff Commission in April 1932. In the brief filed for the Importers by Honorable Daniel C. Roper and myself, we then argued that, **"The domestic refiners are primarily attempting to have the Tariff Commission investigate the basic economic trends in sugar refining rather than differences in costs of production"**. In support of our statement, we set out (p. 8) part of the opening statement of counsel representing the domestic cane refiners made on April 12, 1932, Minutes of the United States Tariff Commission, Docket No. 66 (p. 39):

> * * * **I believe this investigation and its result should be governed by other factors than those directly related to difference of cost of production.** It is our contention—and we will expect to prove—that the Island of Cuba today is rapidly converting itself into one great refinery. The Island of Cuba today is a potential refinery, and when it completes this process of conversion which, at the rate it is going now, will be accomplished in exactly nine years it will have destroyed not only the refining industry of the United States but the beet sugar industry of the United States and the Louisiana cane sugar industry. * * * Therefore, **lest the trend of this investigation be too closely along the lines of comparisons of costs of the principal refining units in Cuba with the refineries of the United States,** we will expect to show to the Commission that **the competition which is destroying the American industry is the competition of the newer units of the refining operation in Cuba rather than the older."**

Admittedly, in 1932 the United States cane refiners were endeavoring to slow up the inevitable evolution already under way in sugar refining. As we shall hereafter point out, **the proposed marketing agreement with the limitation of 110,000 short tons from Cuba means** practically elimination of competition for domestic refiners because the existing Cuban refineries could operate only a small number of days per year with such a quota.

This is not the whole story. In paragraph 15 of the proposed agreement the Secretary of Agriculture is asked to approve a provision, which does not affect the farmer one iota but which is 100% discriminatory in favor of domestic cane refiners, namely:

> Until such time as the demand of the United States for sugar cannot be adequately met by the fullest possible use of existing capacities of the refiners and beet processors of Continental United States, and other processors of direct consumption sugar marketable hereunder in the United States, the now existing capacities of refiners, beet processors and other processors, whether of raw sugar or direct consumption sugar, in the United States, shall not be increased, nor shall the construction of new refineries beet or other sugar mills or factories be initiated in the United States.

Off-shore refiners are in their very nature independents, and their financial strength does not begin to compare with the units engaged in continental United States refining. It is only by the economy and efficiency of our process that we can successfully fight against the Goliaths in the sugar industry. Naturally, we do not want the Federal Government to take away from us that which we are winning by greater efficiency and economy from our less progressive competitors.

On July 11, 1932 the Tariff Commission issued a memorandum in the refined sugar phase of its investigation. Copy of this memorandum is attached hereto as Exhibit C. This report states that:

> **The refining process is such that relatively little labor is required.** The total number of wage-earners in all of the cane

sugar refineries in 1929 when the production was about 5,100,000 tons, was less than 14,000. **Even if all of the refined sugar imported from Cuba * * * were refined in the United States, the additional demand for labor would be relatively small * * * .**

In February 1933 a public hearing on the general investigation of sugar, both raw and refined, was held by the Tariff Commission. This case is yet undecided. At that hearing it was generally agreed by all interests that the only solution of the general sugar problem was by establishment of raw quotas. **No intimation was ever given that any one felt that the solution of the production and consumption of sugar in the United States involved, in any degree whatsoever, the imposition of quotas on refined sugar.**

*REFINERS' TELEGRAM TO PRESIDENT ROOSEVELT

In the August 3rd issue of the New York Times appears part of a most remarkable telegram on behalf of the domestic sugar refiners to President Roosevelt. The first paragraph of the press

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*Since writing this brief, the refiners have published a large advertisement on August 7th in all the leading newspapers under the caption "To the Home Makers of America".

When the Farm Relief Bill was being considered by Congress the continuous activities in Washington of the domestic cane refiners to have the bill so phrased as to include sugar as one of the commodities that could be brought under the Act, made the deduction rather obvious that the phase of sugar in which they were interested was **off-shore refined**. Subsequent developments in and out of the Committee Conferences have confirmed this. **The theme of the advertisement is that the building of refineries in Cuba is to duplicate mainland facilities.**

The complete answer is that the gradual displacement of these large units using inefficient and uneconomical methods of refining by smaller, independent, efficient and economical refineries, utilizing modern processes, is a development to be encouraged for the benefit of the public.

The fight is now in the open as to the real intention of the proposed marketing agreement. The Domestic Cane Refiners ask the Federal government to protect them on the use of inefficient mechanical technique, and if the Administration will do this the refiners will cooperate 100% on the Recovery program.

release pledges the support of the refiners to the program for industrial recovery. The second paragraph reads:

> "We have already cooperated with the Department of Agriculture in the preparation of a tentative agreement designed to bring about a balance between sugar production and consumption. If under that agreement, our industry is safeguarded against the invasion of the domestic market by refined sugar produced elsewhere under unequal labor conditions, then we will be able to maintain our industry on a normal basis."

Can it be that the refiners intended thereby to put the President on notice that their patriotic cooperation with the government's program to raise prices of farm products will be conditional upon the government's willingness to aid them in crushing their small competitors?

It is absurd to talk about a "balance between sugar production and consumption" being dependent upon whether the sugar eaten by the American consumer be refined in New York, Cuba, Puerto Rico, or the Philippines. The balance between production and consumption will not be changed one whit whether the sugar has been refined in one place or the other.

In the last quoted paragraph of this telegram the idea conveyed to the President is that the continental refining industry should, under the proposed marketing agreement, be safeguarded against refined sugar produced elsewhere **under unequal labor conditions.**

DIFFERENCES IN WAGES FOR LABOR A MINOR FACTOR IN REFINING COSTS

The official records of the Tariff Commission justify us in emphatically stating that **"unequal labor conditions"** are only one of the many factors in the evolution now taking place in the sugar refining of which domestic cane refiners complain. We have

already called attention to its memorandum (Exhibit C) stating that relatively little labor is required in the refining process—it is a mechanical process. In the February 1933 number of the well-known publication "Fortune" is an interesting and instructing article on the American Sugar Refining Co. It is stated that this company in its five plants in Boston, Brooklyn, Philadelphia, Baltimore and New Orleans has on its pay roll only half as many employees as in the department store of R. H. Macy & Co., "* * * for the reason that refining is largely the work of machines".

ADVANTAGES IN CUBAN REFINING CLAIMED BY DOMESTIC REFINERS BEFORE TARIFF COMMISSION

That "unequal labor conditions" are not the real cause of the alleged plight of the domestic cane refiners is conclusively shown by their brief filed with the Tariff Commission in April 1932. Under the caption "Advantages of the Cuban Refiner" (pp. 25 to 56), the refiners have listed the advantages of refining in Cuba. We attach hereto as Exhibit D an advertisement which was published in the July 1932 issue of "Facts About Sugar". The numbered items 1, 2, 3, 4, 5 and 6 are taken **verbatim,** from pages 25 and 26 of the refiners' brief. The last paragraph in the exhibit is also taken verbatim from the refiners' brief (p. 35—par. C). It will be noted from this exhibit "unequal labor conditions" are not even claimed to be other than one of the factors in their situation.

Exhibits A, B and D, in truth and in fact, show that the refining methods used by the cane refiners in the United States have not kept up with the modern methods of efficiency and economy in refining.

IMPORTS OF REFINED SUGAR DO NOT AFFECT BEET FARMERS

We have heretofore pointed out that the only group affected by imports of refined sugar is the refiners.

Mr. J. D. Pancake, Secretary of the National Beet Growers Association and a beet grower representative in the Committee conferences with Dr. Coulter, testified before the Tariff Commission in its general sugar investigation on February 14, 1933 that his association was composed of beet associations in the States of California, Utah, Idaho, Wyoming, Montana, Colorado, Nebraska and South Dakota (R. 555). At that hearing, the Domestic Producers introduced (R. 1255) Exhibit No. 144 (17-A), a photostatic copy of which is hereto attached as Exhibit E. This exhibit shows the deliveries in each State of Cuban refined sugar during the year 1932. It is interesting to note that **none** of the States represented by Mr. Pancake received any Cuban refined sugar during 1932. The only beet sugar State in which Cuban refined was delivered in 1932 is Michigan. Domestic Producers Exhibit (R. 1253) No. 142 (12-A) shows a delivery of Cuban refined in Michigan of only 24,457 short tons.

It is perfectly clear, therefore, that so far as the beet growing States are concerned, there is no justification whatsoever of imposing a quota on Cuban refined sugar. The beet grower is interested in the **amount of sugar** imported. It makes no difference to him where the raw sugar is refined.

DECREASE IN CONSUMPTION AND INCREASE IN BEET SUGAR ARE SUBSTANTIAL FACTORS IN REDUCED DOMESTIC CANE REFINERS' MELT

The domestic cane refiners have urged the Tariff Commission for restoration of their volume of business. We quote from page 17 of their 1933 brief before the Tariff Commission:

> The American refiners do not ask for an increase in price. They ask for the **restoration of their volume so as to decrease their production costs.** They ask, too, for the opportunity, when prosperity returns, to recover their volume lost during the depression. **They ask that the right to a restoration of this volume be assured them, and they ask to be protected in its future enjoyment.**

What the refiners really want, and seek to obtain in the proposed marketing agreement, is the monopoly in the production of white sugar, and the **Secretary of Agriculture is asked to authorize such a monopoly pursuant to an Act passed for the aid of sugar farmers.**

The domestic cane refiners' loss in the volume of melt has been occasioned by (1) reduced consumption, (2) increase in sugar beets, (3) imports of off-shore refined sugar, (4) refusal to make tolling contracts since the formation of the Sugar Institute.

(1)

Consumption in the United States in Short Tons

1929	1932	
6,508,000	5,840,000	668,000 Decrease

(2)

Beet Production in the United States

1929	1932	
959,000	1,232,000	273,000 Increase

Note: Above figures are in short tons and are taken from "Statistics On Sugar" issued by the Tariff Commission May 25, 1933 (Table 10, page 16).

(3)

Refined Sugar Imports from the Insular Possessions, Cuba and Foreign Countries (Page 17, Table 11, "Statistics on Sugar"—short tons)

1929	1932	
350,000	636,000	286,000 Increase

(4) **The abandonment of tolling contracts has reduced volume of melt, and unnecessarily increased the unit costs of refining for the domestic cane refiners.** Prior to the organization of the Sugar Institute, the domestic cane refiners entered into contracts with

producers or importers of foreign raws to refine them in the United States on toll basis, at so much per 100 pounds. The sugar remained the property of the producer or importer. After being refined it came into direct competition with the refined sugar of the domestic cane refiners. The effect of this competitive refined sugar was to lessen the control of the domestic cane refiners of the sugar market and to that extent to interfere with any monopolistic price fixing arrangement. In the pending Sugar Institute litigation, the Government in its reply brief (pp. 220-221) stated:

> The reading of the defense brief must leave the Court with the clear conviction that **tolling has been definitely outlawed by the Sugar Institute. Tolling is an important business practice.** There is nothing dishonest about it. There is nothing that even suggests illegality.

AMERICAN LABOR AND INDUSTRY BENEFITED RATHER THAN INJURED BY CUBAN REFINING

At the 1933 public hearing before the Tariff Commission, George T. Walker, President of Matanzas Sugar Company, made a substantial contribution to a consideration of the effect upon American labor by Cuban refining. He stated (R. 1462):

> "It has come out several times about the American labor that is displaced by the refining of sugar in Cuba. Now, if that were a real fact, it would really be very serious. That is, if the little refining industry down there was actually displacing a large amount of American labor in these depressed times, it would certainly be something to consider. **We * * * claim that the sugar manufactured or refined last year and sent into this country was such that the American public and the American industry and the American working people obtained more out of each 100 pounds than a similar amount of refined granulated sugar made in this country."**

Mr. Walker pointed out that refining of sugar was largely a machine process and that the labor cost was very small both in the

United States and Cuba; and that, of course, a few cents per 100 pounds, spent for labor on refining in Cuba, this country does not get, but demonstrated that American labor obtained far more indirect benefit from purchases of manufactured articles and materials in the United States by Cuba refiners than was lost by reason of disbursements for labor in Cuban refineries.

He called attention to some of the other costs incurred by the Cuban refiners, such as cotton bags made from cotton grown in the United States, shipped from New Orleans to Cuba in American ships; and stated that all the materials used in Cuban refining such as fuel, oils, grease, meltings, carbon char and everything else are purchased in the United States, shipped over our railroads to the ports and then to Cuba by American ships. In all of these operations both American labor and industry obtain employment and profit therefrom. He pointed out the importance to American ships of the tonnage of sugar from Cuba; his company had paid out last year about $180,000 in ocean freight which was received for the benefit of American labor and industry. His conclusion can best be stated in his own words (R. 1463):

> Therefore, I think that while American labor did not produce the sugar that we did produce, American industry and American labor were given more out of our particular sugar that came up last year than an equal amount of sugar from domestic refineries would produce.

CUBAN SUGAR NECESSARY TO THE UNITED STATES IN THE EVENT OF WAR

The importance of Cuban sugars to the United States in the event of war was pointed out by Mr. Walker (R. 1469):

> It has been brought out—and I think that we all agree—that it might be a rather dangerous thing to depend upon the Continental United States for its entire supply of sugar. Cuba is only 90 miles away. In case of war, undoubtedly it could be easily protected. I doubt very much if the other three sup-

plying countries could be. **As a matter of fact, if war should come tomorrow, and the supply of sugar from the Philippines, Puerto Rico and Hawaii could not be kept open, there is not enough growing now on the island of Cuba to produce sufficient sugar, plus the largest beet crop ever made in this country to supply the United States with sugar by a very wide margin.**

LARGE DOMESTIC CANE REFINERIES LESS ECONOMICAL THAN SMALLER REFINERIES UTILIZING MODERN REFINING METHODS

The domestic cane sugar refiners of the United States refine and process two-thirds of the sugar used by the American consumer. The domestic refining of raw sugar is done by 13 companies, operating 19 plants. The American Sugar Refining Company operates 5 refineries and the National Sugar Refining Company operates 3. American has a substantial stock interest in National. These two companies with their 8 plants constitute 49.8% of the total refining capacity of the 19 refineries.

That the sugar refining industry of the United States is in the hands of such a small number is due to the fact that until recently sugar could be refined only by large units requiring immense capital outlay. In the past few years, improvements in the methods of refining, largely the introduction of vegetable carbon in the place of bonechar carbon, has made it possible to operate economically in comparatively small units. These small units have been developed not merely in Cuba, but in Louisiana, Puerto Rico, Hawaii, Mexico, Brazil, Argentine, Santo Domingo, Haiti and the Philippine Islands. The centralization of sugar refining into smaller and more efficient units will necessarily be of great benefit to the ultimate consumer. **The only argument advanced for centralized industry, controlled by a few groups, is that it can sell to the consumer at lower prices than smaller and less economical units, but, in the case of the smaller refineries utilizing modern refining methods, this is not the case.**

DOMESTIC CANE REFINERS NOT ENTITLED TO SPECIAL PRIVILEGES

We submit that in the case of the domestic cane refiners no special form of privilege or relief is justifiable. During the past three years the domestic cane refineries have shown substantial earnings. The Spreckel's refinery at Yonkers and the Texas City Refinery have not operated for two years or more. In neither case was the closing due to the importation of Cuban refined sugar.

Exhibit F shows the comparative earnings of various domestic cane sugar refineries.

PROPOSED QUOTA OF DIRECT CONSUMPTION SUGAR

Paragraph 6 of the proposed agreement gives Cuba a quota of 110,000 tons of direct consumption sugar. This curtails the importation of Cuban granulated approximately to one-fifth of the 1932 imports and to about one-ninth of the capacity of the existing refineries in Cuba. From the standpoint of the importer, **this amounts to an embargo against Cuban refiners and an embargo in favor of domestic cane refiners.** Of course, it would be more or less impossible for Cuban refineries to operate if the quota of 110,000 tons were to be distributed equitably among all the existing refineries there. **Whatever the quota** may be for all types of sugars from Cuba, **the proportion of this sugar that comes into the United States as refined sugar does not affect the Continental beet or cane raws.** In the case of the beet producer, they market all of their sugar in the form of refined, and the agreement under consideration now provides for the marketing of this refined sugar within close approximation of the capacity of the existing beet refineries. In the case of the Louisiana producer, the amount of direct consumption produced there is comparatively small.

AGREEMENT HAS NO SAFEGUARD TO THE CONSUMER

While the proposed marketing agreement relates the price of raw sugar to the world price, **yet the agreement has no safeguard whatsoever as to what the refiner may demand for** refined sugar which, as raws, have been bought according to a prescribed formula. It can not be controverted that so far as the agreement is concerned the refiners can sell refined sugar at such prices as the traffic will bear. It has been the general understanding in and out of Committee Conferences that the refiners' margin, after the agreement is effective, will be increased from an approximate average of nine-tenths of a cent per pound to 1¼c.

The 1932 report of the American Sugar Refining Company states that it earned about $5,349,459.06 which is about 1/5c per pound on its total raw melt. If the refiners increase their spread to 1¼c the extra amount of over ¼c per pound will more than double the refiners' profits. Probably, supplies purchased by the refineries will cost more, but very little will go for labor because the total number of employees is less than 15,000. **From whatever viewpoint the agreement is considered, the conclusion seems inescapable that its principal effect is to aid domestic cane refiners, who do not stand in need of any such assistance.** Aid to the farmer is a mere vehicle for the refiners to obtain special privileges which would otherwise never receive serious attention,

COMMENTS ON CERTAIN SPECIFIC PROVISIONS IN PROPOSED AGREEMENT

Section 1, paragraph (k). The definition of "sugar" is too inclusive. "Syrups", "molasses", and "invert sugar" should be excluded from the definition. These are all specialties and their inclusion will highly complicate the workability of an agreement. The sugar content of syrups, molasses and invert sugar should not be considered as part of a sugar quota. The total sugar content of

such imports is of relatively little consequence. (A syrup and molasses code has been prepared and submitted to the Administration.)

Section 1, paragraph (m). We recommend that the section be amended, so as to read:

> The words "raw sugar" as used herein shall mean any cane sugar as defined in (k) above as directly extracted from the cane juice and which has not been purified by the removal of impurity through the agency of an absorbent decolorizing carbon to convert same into white standard refined sugar.

Section 1, paragraph (n). We suggest this section be amended, so as to read:

> The words "direct consumption sugar" as used herein shall mean sugar marketed in the United States other than raw sugar as defined in "m" above.

Under the definition of "direct consumption sugar" as it now stands, imports of sugar such as used by the tobacco companies would be direct consumption sugar and charged against the white sugar quota. In this situation, the off-shore refiners could never know how much of the white sugar they could actually make and ship because they could never know how much of their quota would be shipped in as "direct consumption sugar".

Section 1, paragraph (p). This paragraph is highly **discriminatory.** Considered in connection with the effective date of July 1, 1933 in Section 2, it creates an impossible situation. If we assume that the marketing agreement is approved by the Secretary and executed by not later than September 15th, sugars delivered from Cuba and the Insular possessions after July 1st would be shipped from the 1932-33 crop, and under the proposed agreement would be chargeable against the **first quota year,** which is only intended to take care of the 1933-34 crop. **We do not suppose that**

any such harsh and retroactive arrangement is intended, even if it be assumed to be legal. The practical effect of this would be to reduce the quota to be shipped from the 1933-1934 crop during that crop year. When the marketing agreement is executed Cuba will undoubtedly have exhausted its quota of 110,000 tons of refined sugar and have done this before it had refined a single ton of its 1933-34 crop. So, Cuba would not be able to ship in any refined sugar after September 15th, 1933 until July 1st, 1934. The raw quotas for Cuba and the Philippines for the first contract year, out of the 1933-34 crop, will be very materially reduced in the amount of shipments from the 1932-33 crop made after July 1st. The date July 1st discriminates in favor of the beet producing area since that area would have sold its 1932-33 crop by August 1st, 1933. The grinding season for the 1933-34 crop begins in the Philippines in October and in Cuba about January 1st. It seems to us that no date earlier than October 1st can be taken as the effective date of the agreement.

The provision as to **deliveries** discriminates against importers of refined sugar. Obviously, importers of refined sugar, in the matter of deliveries, should be placed on the same basis as the domestic refiners. As the clause now stands, stocks of imported white sugar kept in warehouses in the United States would not be considered as deliveries within that particular contract year because the right of possession had not passed to the domestic cane refiner or to the user or consumer of the sugar.

Section 2. We have already called attention to the necessary change of the effective date of July 1st. In this connection it is to be noted that in Section 2 (par. 1 of the Act) there is a different date for the **base** period of tobacco.

Section 3—Termination Clause. The requirement that the agreement may be terminated at the end of the first or second year by unanimous written consent of the voting members of the Stabilization Board is too harsh, both as to voting and to the require-

ment that such consent shall be filed not later than four months prior to the end of the contract year. The provision in Section 12 that a Cuban representative shall have no right to vote is indefensible.

We urge that the termination clause be further amended so as to provide that the President shall have the power to terminate the agreement at any time. As it now stands, the President could only terminate the agreement by declaring a termination of the entire Act. The actual operations of any sugar marketing agreement are fraught with tremendous possibilities. The experience of other countries with Stabilization Boards on sugar and other commodities shows this danger. We earnestly recommend that the absolute power of termination be given to the President **as a protection to the public against unjust results,** and **as a safeguard to the Administration itself,** which every one admits will assume a tremendous responsibility in approving any agreement as to such a political explosive as sugar.

Section 3—Second Paragraph. A strikingly guileless provision. In the event that Congress should see fit to reduce the present duty on 96° sugar or to reduce the existing tariff on refined sugar, then this agreement shall automatically terminate within 60 days—unless certain members of the Stabilization Board shall unanimously agree to continue under the agreement. This paragraph seems to us to be an effort to discourage Congress in reducing the sugar duty. **Why should the termination hinge upon a reduction only in the duty?** If any such clause is to be in the agreement, certainly a withdrawal should be open to any party thereto who is effected by any **reduction or increase** in the sugar tariff schedule. If the white sugar differential should be increased, or the rates on syrup and molasses changed, can it be said that the parties affected by changes in the law should still be tied into an agreement without even a **right** to withdraw even though the duty increases may vitally effect their business life?

Section 4. The quota given to the Philippine Islands is, in our judgment, a discrimination in favor of the other Insular possessions and denies equality of treatment among all farmers under the American flag; and violates both the spirit and the letter of the Philippine Independence Act. Certainly, **if Congress had never enacted the Independence Act, no one would have argued that the Philippine quota for 1933-34 should be on any different basis than that of the other Insular possessions.** Anyone familiar with this legislation knows that it was compromise legislation and that it was thoroughly understood by Congress that, during the preliminary period (about two years), the Philippine importations into the United States should not be limited. Just here, we beg to remind continental Americans that this unrestricted period is not such a one-sided arrangement as many would like to have us believe. It must be remembered that for many years **all exportations from the United States to the Philippine Islands have been unlimited and duty free,** and that this preference to the United States was put into effect over the unanimous protest of the Philippine Legislature.

The quota of Cuba seems to us to violate fundamentals necessary to any agreement—that **all** parties must make equitable concessions. Indisputably, the concessions made by Cuba are out of proportion to that of the other areas, both non-continental and continental.

Section 5. The quotas for the continental areas are not fair as between them and the Philippines even when considered on a basis of National status; and not fair to Cuba considered on the basis of concessions to be made by all for the benefit of a common cause.

Section 6. The quota of direct consumption sugar for the Philippines is too small for the reasons set forth in our comments on Section 4. The quota is too small considering the existing capacities or output of the three operating Philippine refineries.

The quota of Cuba amounts to an embargo, and under all the circumstances, which we have already discussed, should not be materially less than the combined capacity of the existing refineries after proper deductions for local consumption.

We see no reason why the farmers and processors of Puerto Rico and Hawaiian Islands, who are citizens of the United States, should not have the same rights as farmers and processors of continental United States in determining the form in which they shall market their sugar.

In this connection, we feel the clause in Section 15, regarding the construction of new refineries, **should be modified so as not to prevent any processor or raw sugar producer in Louisiana, Florida, Puerto Rico, or the Hawaiian Islands** from adding such equipment as may be necessary to refine his own sugar.

To charge the full raw quotas 107 pounds for every 100 pounds of direct consumption sugar is based on an erroneous assumption. That figure can only be used where the polarization of raw sugar is 96°. Practically all of the imported raws have a higher polarization than the 96°, while a considerable portion polarizes in excess of 98°.

There is no authority in the Agricultural Adjustment Act to have an embargo clause in a marketing agreement. We must look to Paragraph 109 of the Recovery Act for the power to apply an embargo. The embargo there provided for (1) can only be put into effect by the President, (2) under circumstances where imports are coming into the United States in such quantities or under such conditions as to render ineffective or to endanger any code or agreement made under the Recovery Act, and, (3) after hearing by the Tariff Commission.

Section 8. Blackstrap molasses has no place in the agreement.

Section 9, First Paragraph. Provision should be made for allotments of Philippine refined sugar quota on the basis of the exportation of the refineries for the preceding year pursuant to

the formula of the Independence Act. Some similar principle should govern the allocation of refined sugar in the other refined sugar areas.

In the second paragraph of this section, if any producing area has a deficiency for the first year for causes beyond its control to deliver its full quota, it has the privilege of carrying this deficiency over to be added to its quota for the second contract year. **This puts a premium on exaggerated estimates for the first year.**

It seems to be agreed that the crop production of 1933 in all of the producing areas, with the exception of Puerto Rico and Cuba, will be the highest known in recent years. We can see no reason why, if under the known conditions some of these areas run short of the estimates and quotas for the first year they should be given the right to carry this deficiency forward into the second year.

Section 10, Paragraph (a). The agreement is one-sided as between the growers of the producing areas and the domestic cane refiners. It requires the growers to ship as, if and when the Stabilization Board may order, but contains no corresponding requirement that the refiners shall purchase the products of the growers under similar regulations of the Board.

Section 10, Paragraph (d). It requires the raw producers to sell their sugar to be consumed in continental United States **only to refiners directly or to refiners or others through licensed brokers.** This places the large consumers or users of direct consumption sugars absolutely in the hands of the domestic refiners. Such consumers would be up against a closed market. If a very large consumer felt that he was being "gouged" in price by the refiners he would be helpless. It deprives such a consumer of his natural right, which no contract could legally take away from him, of the privilege of buying raw sugar whenever and wherever he pleases and bringing it into the United States by paying the legal duty and refine such sugar in his own refinery for his own use.

This Section should be considered along with part of Section 15 which provides that no sugar refineries can be constructed. This prohibits the construction of a refinery by a large consumer for his own use.

We have already called attention to the situation that would probably arise under Section 10. A licensed broker could import raws and sell them to some large user of direct consumption sugar and such sales would be charged against the direct consumption quota, which is primarily intended for the refined white sugar quota. The white sugar quota might all be used up and the refiner could not know whether he could make white sugar or ship it to the United States. This situation would be remedied if the Section on definitions be amended so as to define both refined sugar and direct consumption sugar.

Section 12. Unquestionably, the Cuban representative should have the right to vote on the Stabilization Board. **We recommend that the Secretary not agree to be a member of the Board.** In the first place, this Board officially announces the world price for sugar daily. If the Secretary be a member, it amounts to Federal Government engaging in price fixing. In the second place, the acts of this Board may not be favorably received by the American people and it is our feeling that if the Secretary is a member of the Board, all the onus will be shifted to the Administration.

We feel that it will be necessary to have a separate representative on the Board for off-shore refined sugar. The interests of raw producers and off-shore refiners are entirely different. Possibly, one such representative for all off-shore refiners may suffice.

Section 13, Paragraph (a). The requirement that excess quota sugar shall be held at or near the respective producing areas would not be practicable for the Philippine Islands. Because of the distance it might never have a chance to participate in the sale of the segregated reserves (Section 13, paragraph (b)).

Section 16. This Section seems to contemplate supplemental marketing agreements or codes. Having no knowledge as to any such agreements, we are unable at this time to offer any comment. It will be noted that a condition precedent to the coming into effect of this agreement shall be the adoption of such supplemental marketing agreements or codes **satisfactory** to (a) Schedule A of refiners, (b) beet processors, (c) processors of Louisiana direct consumption sugar and (d) Hawaiian and Puerto Rican operating processors of direct consumption sugar. **We are at a loss to understand why satisfaction as to such agreements should be confined to these groups.** We insist that the operating refiners in Cuba and the Philippines are just as much entitled to be satisfied as the "operating refiners listed in Schedule A".

Section 18. This is probably one of the most important Sections in the entire agreement. If it is intended that this Section should be applicable to hours and wages in the tropics it will have to receive most serious consideration.

Section 19. Authority to amend any agreement by unanimous consent of the voting members of the Stabilization Board is a doubtful provision. **Would this Board have the power to change quotas, reserves,** etc.? This suggests another reason why the Secretary should not be a member of the Board, and why he, or the President, should have veto power of the actions of the Board generally. It also suggests an additional reason why off-shore refiners should be entitled to representation on the Board.

Section 21. The section, as it now reads, protects the contracts entered into in good faith by the domestic refiners. This Section should be amended so as to include definitely off-shore refiners by reason of raw stocks held in the Philippine Islands and stocks of imported refined held in the United States.

CONCLUSION

The proposed marketing agreement should be drastically amended. As now proposed,

(1) It is a refiners' agreement and a proposal for an absolute monopoly under the cloak of a farmers' aid bill.

(2) It constitutes a bold effort on the part of domestic cane refiners to shut out imports of refined sugar from our Insular possessions.

(3) It discriminates against the Philippines and in favor of the other Insular possessions.

(4) It means a practical embargo against Cuban refined sugar as well as from our Insular possessions.

(5) Continental producing areas, Hawaii, and Puerto Rico make practically no concessions on quotas.

(6) It is written entirely from the standpoint of giving the domestic refiner a monopoly and the public has no safeguard whatsoever as to price.

(7) It penalizes economy and efficiency in manufacturing methods by law in order to prolong the life of an inefficient and uneconomical industry not deserving of any special privilege. The refiners call improvement in refining methods "duplication" of mainland facilities.

(8) It means the fostering of large, uneconomical, centralized refining units and the discouragement of smaller, efficient, decentralized plants utilizing modern processes of refining.

(9) It would be regarded by the American public as a complete surrender to the members of the Sugar Trust.

Respectfully submitted,

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New York City.

EXHIBIT C

The Tariff Commission memorandum of July 11th, 1932:

The Tariff Commission announces that the **preliminary tabulation** of the cost data obtained from domestic and Cuban sugar refineries **shows that the difference between domestic and foreign costs of refining is not such as to justify the Commission in specifying either an increase or a decrease in the rate of duty on refined sugar,** at least until after the Commission has finished the complete sugar investigation, which includes beet sugar, sugar cane and raw sugar costs. The domestic costs of refining, because of the loss of raw sugar in the process, are much affected by the duty on raw sugar, and **if the investigation should later result in either an increase or decrease of the duty on raw sugar it would be necessary again to adjust the duty on refined sugar accordingly.** For **this** reason **an immediate change** in the **duty on refined sugar** would **not** be justified **unless the difference in costs** were found to be **substantially** greater or less than the present duty, **which is not the case.**

There is not now anything to indicate that there will be any important change in the position of the domestic or the Cuban sugar refining industry (such as expansion of refining in Cuba) during the few months which will elapse before the final report on the entire sugar investigation is completed. Refined sugar imported from Cuba is now about 5 per cent. of the total consumption of all refined sugar and about 7 per cent. of the consumption of refined cane sugar in Continental United States.

Any change in the rate of duty which might result from the present refined sugar investigation would not be sufficient either to increase or to decrease materially the imports of refined sugar from Cuba, or the amount of labor employed in

the domestic refineries. The refining process is such that relatively little labor is required. The total number of wage earners in all of the domestic cane sugar refineries in 1929, when the production was about 5,100,000 tons, was less than 14,000. Even if all the refined sugar now imported from Cuba, which has not exceeded 352,000 tons in any year, were refined in the United States, the additional demand for labor would be relatively small, since refineries now operating have more than sufficient capacity to refine the entire consumption requirements of the country.

The investigation has shown that practically all of the refined sugar produced in Cuba for shipment to the United States is refined by the same methods and processes as are used in domestic refineries. The few Cuban plants which are experimenting with or actually using other methods have as yet not operated during a complete year, possess small capacities, and produce chiefly for the Cuban market. There is no evidence that this situation is likely to change radically, at least in the immediate future.

Most of the sugar consumed in the United States is refined in this country. Out of a total consumption of refined sugar in the United States in 1931, amounting to about 6,130,000 short tons, approximately 1,250,000 short tons were domestic beet sugar, and the remainder, amounting to about 4,880,000 tons, was refined cane sugar from various sources. Of this amount about 4,400,000 tons were refined in Continental United States by domestic refiners, from both domestic and foreign raw sugar. The remaining amount of refined sugar consumed, amounting to less than 500,000 tons, came from the following free and dutiable sources in the refined form: Puerto Rico, 85,000 tons; Hawaii, 10,000 tons: Philippines, 30,000 tons; Cuba, 352,000 tons, (dutiable at preferential rate) and countries paying full duty on the refined product, 921 tons.

The Commission to date has secured the costs of production for all the domestic and Cuban refineries, and has practically completed its work with respect to farm and factory costs of producing beet sugar. Field work will be undertaken at an early date on the farm and factory costs of producing raw cane sugar in Louisiana, Hawaii, and Cuba. Although sugar produced in Puerto Rico and the Philippines does not enter into the cost comparison for purposes of Section 336, supplementary data regarding the production of sugar in these Islands will be obtained because of its important relation to the industry in Continental United States.

EXHIBIT F

	*American Sugar Refining Co. earned per share common after provision for int. Dep. Etc. & Provision for Pfd. Dividend	National Sugar Refining Corp. of N. Y. earned per share after prov. int. depreciation.	Savannah Sugar Refining Corp. earned per share common after Prov. Int. Depr. & Provision for Preferred Dividends	California & Hawaiian Sugar Ref. Corp. earned per share cap. stock after prov. Int. Dep. Etc.
	450000 shs. Cm. Outstandg.	600000 Shar. No Par	28272 Sh. No Par. Out.	100000 Sh. Outstand.
1927	$1.71	$ .48	$ 7.70	$
1928	7.60	5.62	11.92	10.78
1929	7.77	4.92	11.40	11.42
1930	5.58	4.01	8.12	11.57
1931	2.23	3.52	8.20	11.93
1932	2.62	2.35	6.91	11.41
Sources of Figures	Annual Report	Annual Report	Annual Report	Stan. Statistics

*In 1933 American Sugar Refining Co. redeemed $4,000,000 of bonds due in 1937.

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